



In the Matter Of:

JOSEPH D. WAMPLER,

ARB CASE NO. 96-168

COMPLAINANT,

(ALJ CASE NO. 84-ERA-13)

v.

DATE: September 27, 1996

PULLMAN-HIGGINS COMPANY,

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD^{1/}

**FINAL ORDER APPROVING SETTLEMENT
AND DISMISSING COMPLAINT**

This case arises under the employee protection provision of the Energy Reorganization Act of 1974 (ERA), as amended, 42 U.S.C. § 5851 (1988). This case was remanded to the Administrative Law Judge (ALJ) in 1994. Prior to a hearing on remand, the parties informed the ALJ that the Complainant has withdrawn his complaint with prejudice. Consequently, the ALJ issued a Recommended Decision and Order Granting Withdrawal of Complaint With Prejudice.

The parties have submitted a joint motion for approval of the ALJ's decision and attached a settlement agreement to the motion. Since the motion is based on an agreement entered into by the parties, we must review the agreement to determine whether the terms are a fair, adequate and reasonable settlement of the complaint. 42 U.S.C. § 5851(b)(2)(A) (1988). *Macktal v. Sec'y of Labor*, 923 F.2d 1150, 1153-1154 (5th Cir. 1991); *Thompson v. United States Dept. of Labor*, 885 F.2d 551, 556 (9th Cir. 1989); *Fuchko and Yunker v. Georgia Power Co.*, Case Nos. 89-ERA-9, 89-ERA-10, Sec. Order, Mar. 23, 1989, slip op. at 1-2.

The agreement encompasses the settlement of matters arising under various laws, only one of which is the ERA. See ¶ 2 and 5. For the reasons set forth in *Poulos v. Ambassador Fuel*

^{1/} On April 17, 1996, a Secretary's Order was signed delegating jurisdiction to issue final agency decisions under these statutes and the implementing regulations to the newly created Administrative Review Board (ARB). Secretary's Order 2-96 (Apr. 17, 1996). Fed. Reg. 19978 (May 3, 1996). Secretary's Order 2-96 contains a comprehensive list of statutes, executive order, and regulations under the which the Administrative Review Board now issues final decisions.

Oil Co., Inc., Case No. 86-CAA-1, Sec. Order, Nov. 2, 1987, slip op. 4, we have limited our review of the agreement to determining whether its terms are a fair, adequate and reasonable settlement of the Complainant's allegations that Respondent violated the ERA.

Paragraph 4 provides that the Complainant agrees not to disclose the terms of the agreement other than those persons who are essential to its consummation or as may be required by law. It also provides that the agreement shall not restrict Complainant from discussing any aspects of his employment with Respondent with any individual, corporation, or governmental agency.

Paragraph 9 provides that the agreement shall be enforced in accordance with federal law and the laws of the State of New Hampshire.

We find that the agreement, as here construed, is a fair, adequate and reasonable settlement of the complaint. Accordingly, we APPROVE the agreement and DISMISS THE COMPLAINT WITH PREJUDICE.

SO ORDERED.

DAVID A. O'BRIEN
Chair

KARL J. SANDSTROM
Member

JOYCE D. MILLER
Alternate Member